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Legal Rights and Title of Sovereignty of the Jewish People to the Land of Israel and Palestine under International Law

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The objective of this paper is to set down in a brief, yet clear and precise manner the legal rights and title of sovereignty of the Jewish people to the Land of Israel and Palestine under international law. These rights originated in the global political and legal settlement, conceived during World War I and carried into execution in the post-war years between 1919 and 1923. Insofar as the Ottoman Turkish Empire was concerned, the settlement embraced the claims of the Zionist Organization, the Arab National movement, the Kurds, the Assyrians and the Armenians.

As part of the settlement in which the Arabs received most of the lands formerly under Turkish sovereignty in the Middle East, the whole of Palestine, on both sides of the Jordan, was reserved exclusively for the Jewish people as their national home and future independent state.

Under the terms of the settlement that were made by the Principal Allied Powers consisting of Britain, France, Italy and Japan, there would be no annexation of the conquered Turkish territories by any of the Powers, as had been planned in the secret Sykes-Picot Agreement of May 9 and 16, 1916. Instead, these territories, including the peoples for whom they were designated, would be placed under the Mandates System and administered by an advanced nation until they were ready to stand by themselves. The Mandates System was established and governed by Article 22 of the Covenant of the League of Nations, contained in the Treaty of Versailles and all the other peace treaties made with the Central Powers – Germany, Austria-Hungary, Bulgaria and Turkey. The Covenant was the idea of US President Woodrow Wilson and contained in it his program of Fourteen Points of January 8, 1918, while Article 22 which established the Mandates System, was largely the work of Jan Christiaan Smuts who formulated the details in a memorandum that became known as the Smuts Resolution, officially endorsed by the Council of Ten on January 30, 1919, in which Palestine as envisaged

in the Balfour Declaration was named as one of the mandated states to be created. The official creation of the country took place at the San Remo Peace Conference where the Balfour Declaration was adopted by the Supreme Council of the Principal Allied Powers as the basis for the future administration of Palestine which would henceforth be recognized as the Jewish National Home.

The moment of birth of Jewish legal rights and title of sovereignty thus took place at the same time Palestine was created a mandated state, since it was created for no other reason than to reconstitute the ancient Jewish state of Judea in fulfillment of the Balfour Declaration and the general provisions of Article 22 of the League Covenant. This meant that Palestine from the start was legally a Jewish state in theory that was to be guided towards independence by a Mandatory or Trustee, also acting as Tutor, and who would take the necessary political, administrative and economic measures to establish the Jewish National Home. The chief means for accomplishing this was by encouraging large-scale Jewish immigration to Palestine, which would eventually result in making Palestine an independent Jewish state, not only legally but also in the demographic and cultural senses.

The details for the planned independent Jewish state were set forth in three basic documents, which may be termed the founding documents of mandated Palestine and the modern Jewish state of Israel that arose from it. These were the San Remo Resolution of April 25, 1920, the Mandate for Palestine conferred on Britain by the Principal Allied Powers and confirmed by the League of Nations on July 24, 1922, and the Franco-British Boundary Convention of December 23, 1920. These founding documents were supplemented by the Anglo-American Convention of December 3, 1924 respecting the Mandate for Palestine. It is of supreme importance to remember always that these documents were the source or well-spring of Jewish legal rights and title of sovereignty over Palestine and the Land of Israel under international law, because of the near-universal but completely false belief that it was the United Nations General Assembly Partition Resolution of November 29, 1947 that brought the State of Israel into existence. In fact, the UN resolution was an illegal abrogation of Jewish legal rights and title of sovereignty to the whole of Palestine and the Land of Israel, rather than an affirmation of such rights or progenitor of them.

The San Remo Resolution converted the Balfour Declaration of November 2, 1917 from a mere statement of British policy expressing sympathy with the goal of the Zionist movement to create a Jewish state into a binding act of international law that required specific fulfillment by Britain of this object in active cooperation with the Jewish people. Under the Balfour Declaration as originally issued by the British government, the latter only promised to use their best endeavors to facilitate the establishment in Palestine of a national home for the Jewish people. But under the San Remo Resolution of April 24-25, 1920, the Principal Allied Powers as a cohesive group charged the British government with the responsibility or legal

obligation of putting into effect the Balfour Declaration. A legal onus was thus placed on Britain to ensure that the Jewish National Home would be duly established. This onus the British Government willingly accepted because at the time the Balfour Declaration was issued and adopted at the San Remo Peace Conference, Palestine was considered a valuable strategic asset and communications center, and so a vital necessity for protecting far-flung British imperial interests extending from Egypt to India. Britain was fearful of having any major country or power other than itself, especially France or Germany, positioned alongside the Suez Canal.

The term "Jewish National Home" was defined to mean a state by the British government at the Cabinet session which approved the Balfour Declaration on October 31, 1917. That was also the meaning originally given to this phrase by the program committee which drafted the Basel Program at the first Zionist Congress in August 1897 and by Theodor Herzl, the founder of the Zionist Organization. The word "home" as used in the Balfour Declaration and subsequently in the San Remo Resolution was simply the euphemism for a state originally adopted by the Zionist Organization when the territory of Palestine was subject to the rule of the Ottoman Empire, so as not to arouse the sharp opposition of the Sultan and his government to the Zionist aim, which involved a potential loss of this territory by the Empire. There was no doubt in the minds of the authors of the Basel Program and the Balfour Declaration regarding the true meaning of this word, a meaning reinforced by the addition of the adjective "national" to "home". However, as a result of not using the word "state" directly and proclaiming that meaning openly or even attempting to hide its true meaning when it was first used to denote the aim of Zionism, ammunition was provided to those who sought to prevent the emergence of a Jewish state or who saw the Home only in cultural terms.

The phrase "in Palestine", another expression found in the Balfour Declaration that generated much controversy, referred to the whole country, including both Cisjordan and Transjordan. It was absurd to imagine that this phrase could be used to indicate that only a part of Palestine was reserved for the future Jewish National Home, since both were created simultaneously and used interchangeably, with the term "Palestine" pointing out the geographical location of the future independent Jewish state. Had "Palestine" meant a partitioned country with certain areas of it set aside for Jews and others for Arabs, that intention would have been stated explicitly at the time the Balfour Declaration was drafted and approved and later adopted by the Principal Allied Powers. No such allusion was ever made in the prolonged discussions that took place in fashioning the Declaration and ensuring it international approval.

There is therefore no juridical or factual basis for asserting that the phrase "in Palestine" limited the establishment of the Jewish National Home to only a part of the country. On the contrary, Palestine and the Jewish National Home were synonymous terms, as is evidenced by the use of the same phrase in the second half of the Balfour

Declaration which refers to the existing non-Jewish communities "in Palestine", clearly indicating the whole country. Similar evidence exists in the preamble and terms of the Mandate Charter.

The San Remo Resolution on Palestine combined the Balfour Declaration with Article 22 of the League Covenant. This meant that the general provisions of Article 22 applied to the Jewish people exclusively, who would set up their home and state in Palestine. There was no intention to apply Article 22 to the Arabs of the country, as was mistakenly concluded by the Palestine Royal Commission which relied on that article of the Covenant as the legal basis to justify the partition of Palestine, apart from the other reasons it gave. The proof of the applicability of Article 22 to the Jewish people, including not only those in Palestine at the time, but those who were expected to arrive in large numbers in the future, is found in the Smuts Resolution, which became Article 22 of the Covenant. It specifically names Palestine as one of the countries to which this article would apply. There was no doubt that when Palestine was named in the context of Article 22, it was linked exclusively to the Jewish National Home, as set down in the Balfour Declaration, a fact everyone was aware of at the time, including the representatives of the Arab national movement, as evidenced by the agreement between Emir Feisal and Dr. Chaim Weizmann dated January 3, 1919 as well as an important letter sent by the Emir to future US Supreme Court Justice Felix Frankfurter dated March 3, 1919. In that letter, Feisal characterized as "moderate and proper" the Zionist proposals presented by Nahum Sokolow and Weizmann to the Council of Ten at the Paris Peace Conference on February 27, 1919, which called for the development of Palestine into a Jewish commonwealth with extensive boundaries. The argument later made by Arab leaders that the Balfour Declaration and the Mandate for Palestine were incompatible with Article 22 of the Covenant is totally undermined by the fact that the Smuts Resolution – the precursor of Article 22 – specifically included Palestine within its legal framework.

The San Remo Resolution on Palestine became Article 95 of the Treaty of Sevres which was intended to end the war with Turkey, but though this treaty was never ratified by the Turkish National Government of Kemal Ataturk, the Resolution retained its validity as an independent act of international law when it was inserted into the Preamble of the Mandate for Palestine and confirmed by 52 states. The San Remo Resolution is the base document upon which the Mandate was constructed and to which it had to conform. It is therefore the pre-eminent foundation document of the State of Israel and the crowning achievement of pre-state Zionism. It has been accurately described as the Magna Carta of the Jewish people. It is the best proof that the whole country of Palestine and the Land of Israel belong exclusively to the Jewish people under international law.

The Mandate for Palestine implemented both the Balfour Declaration and Article 22 of the League Covenant, i.e. the San Remo Resolution. All four of these acts were building blocks in the legal structure that

was created for the purpose of bringing about the establishment of an independent Jewish state. The Balfour Declaration in essence stated the principle or object of a Jewish state. The San Remo Resolution gave it the stamp of international law. The Mandate furnished all the details and means for the realization of the Jewish state. As noted, Britain's chief obligation as Mandatory, Trustee and Tutor was the creation of the appropriate political, administrative and economic conditions to secure the Jewish state. All 28 articles of the Mandate were directed to this objective, including those articles that did not specifically mention the Jewish National Home. The Mandate created a right of return for the Jewish people to Palestine and the right to establish settlements on the land throughout the country in order to create the envisaged Jewish state.

In conferring the Mandate for Palestine on Britain, a contractual bond was created between the Principal Allied Powers and Britain, the former as Mandator and the latter as Mandatory. The Principal Allied Powers designated the Council of the League of Nations as the supervisor of the Mandatory to ensure that all the terms of the Mandate Charter would be strictly observed. The Mandate was drawn up in the form of a Decision of the League Council confirming the Mandate rather than making it part of a treaty with Turkey signed by the High Contracting Parties, as originally contemplated. To ensure compliance with the Mandate, the Mandatory had to submit an annual report to the League Council reporting on all its activities and the measures taken during the preceding year to realize the purpose of the Mandate and for the fulfillment of its obligations. This also created a contractual relationship between the League of Nations and Britain.

The first drafts of the Mandate for Palestine were formulated by the Zionist Organization and were presented to the British delegation at the Paris Peace Conference in 1919. The content, style and mold of the Mandate was thus determined by the Zionist Organization. The British Peace Delegation at the Conference produced a draft of their own and the two then cooperated in formulating a joint draft. This cooperation which took place while Arthur James Balfour was Foreign Minister came to an end only after Lord Curzon, the Foreign Secretary who replaced Balfour on October 24, 1919, took personal charge of the Mandate drafting process in March 1920. He shut out the Zionist Organization from further direct participation in the actual drafting, but the Zionist leader, Chaim Weizmann, was kept informed of new changes made in the Draft Mandate and allowed to comment on them. The changes engineered by Curzon watered down the obvious Jewish character of the Mandate, but did not succeed in suppressing its aim – the creation of a Jewish state. The participation of the Zionist Organization in the Mandate drafting process confirmed the fact that the Jewish people were the exclusive beneficiary of the national rights enshrined in the Mandate. No Arab party was ever consulted regarding its views on the terms of the Mandate prior to the submission of this instrument to the League Council for confirmation, on December 6, 1920. By contrast, the civil and

religious rights of all existing religious communities in Palestine, whether Moslem or Christian, were safeguarded, as well as the civil and religious rights of all the inhabitants of Palestine, irrespective of race and religion. The rights of Arabs, whether as individuals or as members of religious communities, but not as a nation, were therefore legally assured. In addition, no prejudice was to be caused to their financial and economic position by the expected growth of the Jewish population.

It was originally intended that the Mandate Charter would delineate the boundaries of Palestine, but that proved to be a lengthy process involving negotiations with France over the northern and northeastern borders of Palestine with Syria. It was therefore decided to fix these boundaries in a separate treaty, which was done in the Franco-British Boundary Convention of December 23, 1920. The borders were based on a formula first put forth by the British Prime Minister David Lloyd George when he met his French counterpart, Georges Clemenceau, in London on December 1, 1918 and defined Palestine as extending from the ancient towns of Dan to Beersheba. This definition was immediately accepted by Clemenceau, which meant that Palestine would have the borders that included all areas of the country settled by the Twelve Tribes of Israel during the First Temple Period, embracing historic Palestine both east and west of the Jordan River. The very words "from Dan to Beersheba" implied that the whole of Jewish Palestine would be reconstituted as a Jewish state. Though the San Remo Resolution did not specifically delineate the borders of Palestine, it was understood by the Principal Allied Powers that this formula would be the criterion to be used in delineating them. However, when the actual boundary negotiations began after the San Remo Peace Conference, the French illegally and stubbornly insisted on following the defunct Sykes-Picot line for the northern border of Palestine, accompanied by Gallic outbursts of anti-Semitic and anti-Zionist sentiments, though they agreed to extend this border to include the Galilee but not any of the water sources from the Litani valley and the land adjoining it. As a result, some parts of historic Palestine in the north and northeast were illegally excluded from the Jewish National Home. The 1920 Boundary Convention was amended by another British-French Agreement respecting the boundary line between Syria and Palestine dated February 3, 1922, which took effect on March 10, 1923. It illegally removed the portion of the Golan that had previously been included in Palestine in the 1920 Convention, in exchange for placing the Kinneret (Sea of Galilee) wholly within the bounds of the Jewish National Home, and made other small territorial adjustments. The British and French negotiators had no legal right to remove or exclude any "Palestine territory" from the limits of Palestine, but could only ensure that all such territory was included. The exchange of "Palestine territory" for other "Palestine territory" between Britain and France was therefore prohibited as a violation of the Lloyd George formula accepted at the San Remo Peace Conference.

The 1920 Convention also included Transjordan in the area of the Jewish National Home, but a surprise last-minute intervention by the US government unnecessarily delayed the confirmation of the pending Mandate. This gave an unexpected opportunity to Winston Churchill, the new Colonial Secretary placed in charge of the affairs of Palestine, to change the character of the Mandate: first, by having a new article inserted (Article 25) which allowed for the provisional administrative separation of Transjordan from Cisjordan; second, by redefining the Jewish National Home to mean not an eventual independent Jewish state but limited to a cultural or spiritual center for the Jewish people. These radical changes were officially introduced in the Churchill White Paper of June 3, 1922 and led directly to the sabotage of the Mandate. Thereafter, the British never departed from the false interpretation they gave to the Jewish National Home which ended all hope of achieving the envisaged Jewish state under their auspices.

The question of which state, nation or entity held sovereignty over a mandated territory sparked great debate throughout the Mandate period, and no definitive answer was ever given. That is extremely surprising because the Treaty of Versailles, signed on June 28, 1919 and ratified on January 10, 1920, stated flatly in Article 22 that the states which formerly governed those territories which were subsequently administered by a Mandatory had lost their sovereignty as a consequence of World War I. That meant that Germany no longer had sovereignty over its former colonies in Africa and the Pacific, while Turkey no longer had sovereignty over its possessions in the Middle East, prior to the signing of the Treaty of Versailles. The date when the change of sovereignty occurred could only have been on January 30, 1919, the date when it was irrevocably decided by the Council of Ten in adopting the Smuts Resolution, that none of the ex-German and ex-Turkish territories would be returned to their former owners. These territories were then placed in the collective hands of the Principal Allied and Associated Powers for their disposition. In the case of Palestine, that decision was made in favor of the Jewish people at the session of the San Remo Peace Conference that took place on April 24, 1920 when the Balfour Declaration was adopted as the reason for creating and administering the new country of Palestine that, until then, had had no official existence. Inasmuch as the Balfour Declaration was made in favor of the Jewish people, it was the latter upon whom *de jure* sovereignty was devolved over all of Palestine. However, during the Mandate period, the British government and not the Jewish people exercised the attributes of sovereignty, while sovereignty in the purely theoretical or nominal sense (i.e. *de jure* sovereignty) remained vested in the Jewish people. This state of affairs was reflected in the Mandate Charter where the components of the title of sovereignty of the Jewish people over Palestine are specifically mentioned in the first three recitals of the Preamble, namely, Article 22, the Balfour Declaration and the historical connection of the Jewish people with Palestine. These three components of the title of sovereignty were the grounds for reconstituting the Jewish National Home in Palestine as

specifically stated in the third recital of the Preamble. On the other hand, since the Jewish people were under the tutelage of Great Britain during the Mandate Period, it was the latter which exercised the attributes of Jewish sovereignty over Palestine, as confirmed by Article 1 of the Mandate, which placed full powers of legislation and of administration in the hands of the Mandatory, save as they may be limited by the terms of the Mandate.

This situation continued so long as the Mandate was in force and the Jewish people living in Palestine were not able to stand alone and hence not able to exercise the sovereignty awarded them by the Principal Allied Powers under international law.

The decisive moment of change came on May 14, 1948 when the representatives of the Jewish people in Palestine and of the Zionist Organization proclaimed the independence of a Jewish state whose military forces held only a small portion of the territory originally allocated for the Jewish National Home. The rest of the country was in the illegal possession of neighboring Arab states who had no sovereign rights over the areas they illegally occupied, that were historically a part of Palestine and the Land of Israel and were not meant for Arab independence or the creation of another Arab state. It is for this reason that Israel, which inherited the sovereign rights of the Jewish people over Palestine, has the legal right to keep all the lands it liberated in the Six Day War that were either included in the Jewish National Home during the time of the Mandate or formed integral parts of the Land of Israel that were illegally detached from the Jewish National Home when the boundaries of Palestine were fixed in 1920 and 1923. For the same reason, Israel cannot be accused by anyone of "occupying" lands under international law that were clearly part of the Jewish National Home or the Land of Israel. Thus the whole debate today that centers on the question of whether Israel must return "occupied territories" to their alleged Arab owners in order to obtain peace is one of the greatest falsehoods of international law and diplomacy.

The most amazing development concerning the question of sovereignty over Palestine is that the State of Israel, when it finally had an opportunity to exercise its sovereignty over all of the country west of the Jordan, after being victorious in the Six Day War of June 5-10, 1967, did not do so – except in the case of Jerusalem. The Knesset did, however, pass an amendment to the Law and Administration Ordinance of 1948, adding Section 11B, which allowed for that possibility and was premised on the idea that Israel possessed such sovereignty. Israel did not even enforce the existing law on sovereignty passed by the Ben Gurion government in September 1948, known as the Area of Jurisdiction and Powers Ordinance, which required it to incorporate immediately any area of the Land of Israel which the Minister of Defense had defined by proclamation as being held by the Defense Army of Israel.

Israel's legal rights and title of sovereignty over all of the Land of Israel – specifically in regard to Judea, Samaria and Gaza – suffered

a severe setback when the Government of Prime Minister Menahem Begin approved the Camp David Framework Agreement for Peace in the Middle East, under which it was proposed that negotiations would take place to determine the "final status" of those territories. The phrase "final status" was a synonym for the word "sovereignty". It was inexcusable that neither Begin nor his legal advisers, including Aharon Barak, the future President of the Israel Supreme Court, knew that sovereignty had already been vested in the Jewish people and hence the State of Israel many years before, at the San Remo Peace Conference. The situation became much worse, reaching the level of treason when the Government of Prime Minister Yitzhak Rabin signed the Declaration of Principles (DOP) with the Palestine Liberation Organization (PLO) and agreed to give it about 90% or more of Judea and Samaria and most of Gaza over a five-year transitional period in order to "achieve a just, lasting and comprehensive peaceful settlement and historic reconciliation through the agreed political process" with the Arabs of Palestine. The illegal surrender of territory to the "Palestinian Authority" originally called the "Council" in Article IV of the DOP was hidden by the use of the word "jurisdiction" instead of "sovereignty" in that article. Further dissimulation was shown by the sanitized reference to "redeployment of Israeli military forces in Judea, Samaria and the Gaza Strip" to disguise the illegal act of transferring parts of the Jewish National Home to the PLO. A spade was not called a spade.

To understand why even the State of Israel does not believe in its own title of sovereignty over what are wrongfully termed "occupied territories" even by leading politicians and jurists in Israel, it is necessary to locate the causes in the Mandate period:

1. The non-ratification of the Treaty of Sevres of August 10, 1920 with Turkey which contained the San Remo Resolution on Palestine and the non-inclusion of this Resolution in the Treaty of Lausanne of July 24, 1923. This gave the wrong impression that the legal status of Palestine as a whole was never settled definitively as being the Jewish National Home under international law and that Turkey did not lose its sovereignty until the signing of this latter treaty.

2. The non-enforcement of most of the terms of the Mandate within Palestine itself, according to their true intent and meaning, by both the British government and the British-administered judiciary which servilely served the former to the point of misfeasance.

3. The deliberate misinterpretation of the meaning of the Mandate by the British government to include obligations of equal weight which it supposedly had undertaken in favor of the Arabs of Palestine, when in actual fact no such obligations ever existed, particularly the obligation to

develop self-governing institutions for their benefit, which – on the contrary – were meant for the Jewish National Home.

4. The issuance of several White Papers beginning with the Churchill White Paper of June 3, 1922 and culminating with the Malcolm MacDonald White Paper of May 17, 1939, whose effect was to nullify the fundamental terms of the Mandate and prevent a Jewish state covering the whole of Palestine from ever coming into being during the British administration of the country. What the British essentially did in governing Palestine was to implement their false interpretations of the Mandate rather than its plain language and meaning. This turned the Mandate Charter upside down and made its aim of a Jewish state unrealizable.

5. The illegal introduction of Article 25 into the Mandate Charter that after its application on September 16, 1922 led to the dislocation of Transjordan from the Jewish National Home and also had a deleterious influence on the administration of Cisjordan by encouraging the false idea that Arab national rights existed not only in the severed part of the Jewish National Home across the Jordan, but in the remaining part as well.

The end result of British sabotage, misinterpretation, distortion and outright denial of what the Mandate stood for was that Jewish legal rights and title of sovereignty over the whole of Palestine as originally envisaged in the San Remo Resolution and the Mandate became so blurred, obfuscated and confused by the time the Mandate ended that it was no longer understood or held to be true. Not even the legal experts of the Jewish Agency for Palestine and the Zionist Organization asserted Jewish sovereignty over the whole country in any official paper or memorandum submitted to the British government or to the League of Nations.

The mutilation of the Mandate Charter was continued by the United Nations when this new world organization considered the question of Palestine. On August 31, 1947, the United Nations Special Committee on Palestine (UNSCOP) proposed an illegal partition plan which recognized Arab national rights in western Palestine, specifically in the areas of western Galilee, Judea, Samaria, the southern coastal plain from Ashdod to the Egyptian frontier and a portion of the western Negev including Beersheba and what became Eilat. It apparently did not occur to the members of the Committee representing 11 states headed by Swedish Chief Justice Emil Sandstrom, that the UN did not have the legal authority to partition the country in favor of the Arabs of Palestine who were not the national beneficiary of the Mandate entitled to self-determination. The trampling of the legal rights of the Jewish people to the whole of

Palestine by the United Nations was in clear violation of the Mandate which forbade partition and also Article 80 of the UN Charter which, in effect, prevented the alteration of Jewish rights granted under the Mandate whether or not a trusteeship was set up to replace it, which could only be done by a prior agreement made by the states directly concerned. The illegal partition plan, with some territorial modifications made in the original majority plan presented by UNSCOP, was then approved by the General Assembly on November 29, 1947 as Resolution 181 (II). The Jewish Agency for Palestine, recoiling from the loss of six million Jews in the Holocaust and trying to salvage something from British misrule of Palestine, accepted this illegal Resolution. By doing so, it lent credence to the false idea that Palestine belonged to both Arabs and Jews, which was an idea foreign to the San Remo Resolution, the Mandate and the Franco-British Boundary Convention of December 23, 1920. The Jewish Agency should have relied on these three documents exclusively in declaring the Jewish state over all of Palestine, even if it was unable to control all areas of the country, following the example of what was done in Syria and Lebanon during World War II.

Another facet of the story that concerned the illegal denial of Jewish legal rights and title of sovereignty over Palestine was the attitude adopted by the United States government towards the infamous British White Paper of May 17, 1939. The United States agreed to the British administration of Palestine pursuant to the Mandate when it signed and ratified the Anglo-American Convention of December 3, 1924. This imposed a solemn obligation on the US government to protest any British violation of this treaty, which had repeated every word, jot and tittle of the Mandate Charter in the preamble of the Convention, regardless of whether the violation affected American rights or those of the Jewish people. Yet when the White Paper was issued in the year of 1939, the US government did not lift a finger to point out the blaring illegalities contained in the new statement of British policy that smashed to smithereens the Balfour Declaration and the Mandate, and brought immense joy to the Arab side. It accepted the incredible British contention that changes in the terms of the Mandate effected by the White Paper did not require American consent because no US rights or those of its nationals were impaired, an argument that was demonstrably false. This US passivity in the face of British perfidy, which was strongly denounced by the venerable David Lloyd George and even by Winston Churchill who had himself contributed to the betrayal of the Jewish people and their rights to Palestine, allowed the British government to get away with the highest violation of international law at the very moment when the Jewish people were about to suffer the greatest catastrophe in their history. There can be no doubt that the Holocaust could have largely been prevented or its effects greatly mitigated had the terms of the Mandate been duly implemented to allow for a massive influx of Jews to their national home.

American inaction against the British government was particularly unforgivable in view of the fact that the articles of the Mandate were

a part of American domestic law and the US was the only state which could have forced the British to repudiate the malevolent White Paper and restore the right of the Jews of Europe to gain refuge in their homeland.

Both the Mandate and the Anglo-American Convention have ceased to exist. However, all the rights of the Jewish people that derive from the Mandate remain in full force. This is the consequence of the principle of acquired legal rights which, as applied to the Jewish people, means that the rights they acquired or were recognized as belonging to them when Palestine was legally created as the Jewish National Home are not affected by the termination of the treaty or the acts of international law which were the source of those rights. This principle already existed when the Anglo-American Convention came to an end simultaneously with the termination of the Mandate for Palestine on May 14-15, 1948. It has since been codified in Article 70(1)(b) of the 1969 Vienna Convention on the Law of Treaties. This principle of international law would apply even if one of the parties to the treaty failed to perform the obligations imposed on it, as was the case with the British government in regard to the Mandate for Palestine.

The reverse side of the principle of acquired legal rights is the doctrine of estoppel which is also of great importance in preserving Jewish national rights. This doctrine prohibits any state from denying what it previously admitted or recognized in a treaty or other international agreement. In the Convention of 1924, the United States recognized all the rights granted to the Jewish people under the Mandate, in particular the right of Jewish settlement anywhere in Palestine or the Land of Israel. Therefore the US government is legally estopped today from denying the right of Jews in Israel to establish settlements in Judea, Samaria and Gaza, which have been approved by the government of Israel. In addition, the United States is also debarred from protesting the establishment of these settlements because they are based on a right which became embedded in US domestic law after the 1924 Convention was ratified by the US Senate and proclaimed by President Calvin Coolidge on December 5, 1925. This convention has terminated, but not the rights granted under it to the Jewish people. The American policy opposing Jewish settlements in Judea, Samaria and Gaza is a fit subject for judicial review in US courts because it violates Jewish legal rights formerly recognized by the United States and which still remain part of its domestic law. A legal action to overturn this policy if it was to be adjudicated might also put an end to the American initiative to promote a so-called "Palestinian" state which would abrogate the existing right of Jewish settlement in all areas of the Land of Israel that fall under its illegal rule.

The gravest threat to Jewish legal rights and title of sovereignty over the Land of Israel still comes from the same source that has always fought the return of the Jews to their homeland, namely, the medley of Arabic-speaking Gentiles who inhabit the land alongside the Jews. They no longer call themselves Arabs or Syrians, but "Palestinians".

This has resulted in a switch of national identity. The Palestinians used to be the Jews during the Mandate Period, but the Arabs adopted the name after the Jews of Palestine established the State of Israel and began to be called Israelis. The use of the name "Palestinians" for Arabs did not take general hold until 1969 when the United Nations recognized the existence of this supposed new nation, and began passing resolutions thereafter affirming its legitimate and inalienable rights to Palestine. The whole idea that such a nation exists is the greatest hoax of the 20th century and continues unabated into the 21st century. This hoax is easily exposed by the fact that the "Palestinians" possess no distinctive history, language or culture, and are not essentially different in the ethnological sense from the Arabs living in the neighboring countries of Syria, Jordan, Lebanon and Iraq. The very name of the supposed nation is non-Arabic in origin and derives from Hebrew root letters. The Arabs of Palestine have no connection or relationship to the ancient Philistines from whom they have taken their new name.

It is a matter of the greatest irony and astonishment that the so-called Palestinian nation has received its greatest boost from Israel itself when it allowed a "Palestinian" administration to be set up in the areas of Judea, Samaria and Gaza under the leadership of Yasser Arafat.

The situation in which the Arabs of Palestine and the Land of Israel claim the same legal rights as the Jewish people violates the authentic international law that was created by the San Remo Resolution, the Mandate and the 1920 Franco-British Convention. It is part of the worldwide folly that has occurred since 1969 when the "Palestinian people" were first accorded international recognition, that authentic international law has been replaced by an *ersatz* international law composed of illegal UN Resolutions. The Fourth Geneva Convention of 1949 and the Hague Regulations of 1907 are acts of genuine international law, but they have no direct application or relevance to the legal status of Judea, Samaria and Gaza which are integral territories of the Jewish National Home and the Land of Israel under the sovereignty of the State of Israel. These acts would apply only to the Arab occupation of Jewish territories, as occurred between 1948 and 1967, and not to the case of Israeli rule over the Jewish homeland. The hoax of the Palestinian people and their alleged rights to the Land of Israel as well as the farce that results from citing pseudo-international law to support their fabricated case must be exposed and brought to an end.

The Arabs of the Land of Israel have ignited a terrorist war against Israel to recover what they consider to be their occupied homeland. Their aim is a fantasy based on a gross myth and lie that can never be satisfied, since that would mean the conversion of the Land of Israel into an Arab country. It is up to the government of Israel to take the necessary steps to remedy what has become an intolerable situation that threatens the Jewish people with the loss of their immutable rights to their one and only homeland.